



SENATE JUDICIARY

Exhibit No. 11

Date 4-4-07

Bill No. HB 597

**American Civil Liberties Union
of Montana**

Power Block, Level 4
PO Box 1317
Helena, Montana 59624
406-443-8590
www.aclumontana.org

Testimony HB 597

April 4, 2007

Chairman Laslovich and Members of the Committee:

For the record, my name is Scott Crichton, Executive Director of the American Civil Liberties Union of Montana, standing before you today in opposition to HB 597.

Current law already allows for cities, towns and counties to enact local ordinances or resolutions that are more restrictive as to obscenity than the provisions of 45-8-206 Public display or dissemination of obscene materials to minors.

The proposed law would expand more restrictive standards to 54-8-205 Definitions and 45-8-207 Violations notice. The original draft also sought to expand 45-8-208 Penalties, but has for now been amended out of this version of HB 597.

In the House hearing several things were apparent. There were zero proponents who were local officials testifying as to their need or desire for expanding restrictive definitions or notice. The arguments that government is powerless to stop molesters from enticing children are contradicted by 45-5-622 and 45-5-625.

The real problem is not that County or City Commissioners turn to their County or City Attorneys asking for broader, more restrictive and punitive laws. The problem is rather that the proponents and their various organizations demand the changes they want and coerce their restrictive language onto local officials fearful of being seen as soft on pornography.

The real results have been that vague and overbroad language fearful of any conceivable loopholes has been foisted on the City or County, and when the laws are successfully challenged, it is the municipalities, not the proponents and their organizations, that are left with the litigation costs as was the case in Ravalli County and Libby. The Ravalli litigation cost in excess of \$70,000 in attorney fees and damages.

The real issue is a constitutional issue, a first amendment issue, as most recently was demonstrated in New York District Court in *ACLU v. Gonzales*. Parents, not the government, should control children's access to information. The ACLU opposes HB 597 and we encourage each of you to do so as well.